

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

LIBOR-Based Financial Instruments
Antitrust Litigation.

ORDER

11 MD 2262 (NRB)

This Document Applies to:

Cases Listed in Appendix

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

USDC SDNY
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ELECTRONICALLY FILED
DOC #: _____
DATE FILED: <u>06/19/2018</u>

This omnibus order addresses the filings made by (1) the Federal Home Loan Mortgage Corporation (Freddie Mac), the Federal Deposit Insurance Corporation (FDIC), the Principal Financial entities, and the Principal Funds entities (collectively, the "FFP plaintiffs"), (2) the Charles Schwab plaintiffs, and (3) the National Credit Union Administration (NCUA) Board, all pursuant to the Court's May 14, 2018 scheduling order, ECF No. 2513.

I. The FFP Plaintiffs

The FFP plaintiffs have collectively filed eight motions for leave to amend, corresponding to three cases filed by the Principal Financial entities (Cases 13 Civ. 6014, 15 Civ. 9792, and 16 Civ. 592), three cases filed by the Principal Funds entities (Cases 13 Civ. 6013, 15 Civ. 9793, and 16 Civ. 590), one case filed by Freddie Mac (Case 13 Civ. 3952), and two cases filed by the FDIC (Cases 14 Civ. 1757 and 18 Civ. 1540).

Though the parties indicated they would "file coordinated briefs on common issues on their respective sides so as to promote efficiency and eliminate duplication in the briefing process," ECF No. 2510, the Principal entities have filed six ostensibly identical memoranda of law (differing only in caption). See ECF Nos. 2547, 2549, 2554, 2558 in Case 11 MD 2262, ECF No. 59 in Case 15 Civ. 9792, and ECF No. 53 in Case 15 Civ. 9793. However incisive or enlightening the legal analysis offered in those memoranda may be (of which the Court offers no assessment at this time), it need not have been offered six times over. As the Court does not wish to require that Principal's counsel refile more than 150 exhibits, the Court will not order that the docket entries in question be stricken. Principal is directed, however, to file a single memorandum of law corresponding to the six cases at issue. To the extent the six memoranda in fact contain differences in substance overlooked by the Court, this single superseding memorandum should identify any such differences.

Principal Financial and Principal Funds's request to seal certain portions of their amended complaints (filed as attachments to ECF Nos. 2547, 2549, 2554, 2558 in Case 11 MD 2262, ECF No. 59 in Case 15 Civ. 9792, and ECF No. 53 in Case 15 Civ. 9793) is granted. Further, Freddie Mac's request to seal certain portions of its proposed amended complaint (filed in

redacted form as an attachment to ECF No. 2567), pertaining to references to and excerpts from proceedings in the Southwark Crown Court,¹ is granted. The FDIC's analogous request to seal certain portions of its proposed amended complaint (filed in redacted form as an attachment to ECF NO. 2568) is also granted.

Finally, the notice of motion at ECF No. 2556 either refers to the incorrect case (Case 13 Civ. 6013 instead of Case 16 Civ. 590) or is duplicative of ECF No. 2551. The Clerk of the Court will be directed to strike ECF No. 2556.

II. Charles Schwab

The Schwab plaintiffs have filed one amended complaint, see ECF No. 2564, which they may do as of right following the Second Circuit's decision in Charles Schwab Corp. v. Bank of America Corp., 883 F.3d 68 (2d Cir. 2018). The Clerk of the Court will be directed to accept an amended complaint filed by the Schwab plaintiffs correcting the filing deficiencies identified at ECF No. 2564 and to reopen Case 13 Civ. 7005, and the Schwab plaintiffs are directed to file a redline version comparing the corrected amended complaint with the previously operative complaint at ECF No. 672.

¹ In the Southwark Crown Court v. Tom Hayes, Case No. T20137308; In the Southwark Crown Court v. Read, et al., Case Nos. T20147566, T20137369, T20137370, T20147183; In the Southwark Crown Court v. Contogoulas, Nos. T20147114, T20147116 and T20147239.

III. NCUA Board

The NCUA Board has filed one amended complaint in Case 15 Civ. 2060, see ECF No. 2543, and a motion for leave to amend (and accompanying memorandum of law) in Case 13 Civ. 7394, see ECF Nos. 2544, 2545. The Clerk of the Court will be directed to accept an amended complaint filed by the NCUA Board that corrects the filing deficiencies identified by the Clerk of the Court at ECF No. 2543, and the NCUA Board is directed to file a redline comparing the corrected amended complaint against the complaint previously filed at ECF No. 1 in Case 15 Civ. 2060. The corrected amended complaint shall be filed on both the MDL docket and the docket in Case 15 Civ. 2060.

* * *

The Clerk of the Court is respectfully directed (1) to accept the partially sealed complaints filed as attachments to ECF No. 2547, 2549, 2554, 2558, 2567, 2568, ECF No. 59 in Case 15 Civ. 9792, and ECF No. 53 in Case 15 Civ. 9793; (2) to strike ECF No. 2556 (but preserve its corresponding docket text); (3) to accept an amended complaint filed by the Schwab plaintiffs that corrects the filing errors identified at ECF No. 2564; (4) to reopen Case 13 Civ. 7005; (5) to accept an amended complaint filed by the NCUA Board that corrects the filing errors identified at ECF No. 2543, and (6) to terminate the motions listed at ECF Nos. 2559, 2560, and 2561 in Case 11 MD 2262, at

ECF No. 60 in Case 15 Civ. 9792, and at ECF No. 54 in Case 15 Civ. 9793.

SO ORDERED.

Dated: New York, New York
June 19, 2018

A handwritten signature in black ink, reading "Naomi Reice Buchwald". The signature is fluid and cursive, with the first name "Naomi" being the most prominent.

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

APPENDIX

This document applies to the following cases:

CASE NAME	CASE NO.
Fed. Home Loan Mortg. Corp. v. Bank of Am. Corp.	13 Civ. 3952
Principal Funds, Inc. v. Bank of Am. Corp.	13 Civ. 6013
Principal Fin. Grp., Inc. v. Bank of Am. Corp.	13 Civ. 6014
Charles Schwab Corp. v. Bank of Am. Corp.	13 Civ. 7005
Nat'l Credit Union Admin. Bd. v. Credit Suisse Grp. AG	13 Civ. 7394
Fed. Deposit Ins. Corp. v. Bank of Am. Corp.	14 Civ. 1757
Nat'l Credit Union Admin. Bd. v. Credit Suisse Grp. AG .	15 Civ. 2060
Principal Fin. Grp., Inc. v. Bank of Am. Corp.	15 Civ. 9792
Principal Funds, Inc. v. Bank of Am. Corp.	15 Civ. 9793
Principal Funds, Inc. v. Bank of Am. Corp.	16 Civ. 590
Principal Fin. Grp., Inc. v. Bank of Am. Corp.	16 Civ. 592
Fed. Deposit Ins. Corp. v. Bank of Am., N.A.	18 Civ. 1540